

PORT OF SEATTLE

MEMORANDUM

COMMISSION AGENDA

ITEM NO. _____

DATE: August 2, 1992

DATE OF MEETING _____

TO: M.R. Dinsmore, Executive Director

FROM: Keith Christian, Director, Marine Planning and Development, and
Walter D. Ritchie, Chief Engineer

SUBJECT: Request for authorization for staff to negotiate and the
Executive Director to enter into a grant agreement with the
U.S. Environmental Protection Agency for construction of two
fish and wildlife habitat restoration projects.

1. BACKGROUND

The EPA, together with the U.S. Fish and Wildlife Service and the Corps of Engineers through the Coastal America Program, is offering funding assistance to the Port for construction of two demonstration fish and wildlife habitat projects in the Duwamish Waterway. The following describes the proposed assistance and the importance of habitat improvement work for Port programs.

Public awareness, concern, and commitment to reduce or reverse environmental disruption due to development has grown significantly over the past thirty years. This concern has been translated at all levels of government into laws and regulations aimed at protecting and enhancing important environmental values. Increasingly environmental laws and regulations are resulting in substantial effects on Port programs and activities.

Laws and Regulations: Federal, state, and local laws and regulations include stringent requirements to protect, maintain, and enhance fish and wildlife habitat. Particular attention is placed on intertidal and wetland fish and wildlife habitat. Regulatory agencies at all levels of government implement guidelines stipulating prevention of any loss of these habitat types due to development activities.

These regulations affect virtually all marine development uses and activities. Specific permit approvals are required for all new facility development with the potential for negative effects on fish and wildlife

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habitat. Habitat destruction and loss must be justified for each particular project and, if permitted, fish and wildlife resources lost to development must be replaced "in-kind" or increasingly, with a greater amount of habitat. Fish and wildlife habitat issues are critically important in the Duwamish Waterway and Elliott Bay, where ninety-eight percent of the intertidal habitat critical to the survival of salmon populations has been lost since 1900.

The effects of fish and wildlife habitat regulations on the Port include: (1) preventing acquisition of new development sites due to potential impediments associated with habitat issues; (2) increasing the time and cost required for design, planning, and construction of new Port facilities; and (3) restricting or increasing the cost of existing operations and maintenance activities.

Port Response: The Port has responded to fish and wildlife habitat requirements by incorporating environmental improvements in facility planning and design—constructing fish and wildlife habitat compensation and enhancement features as part of capital improvement projects. The Port has also worked with regulatory agencies, Indian Tribes, and others with an interest in fish and wildlife habitat to address long-range habitat planning issues.

Beginning in 1985 the Port began working with agencies and Indian Tribes to evaluate the status of fish and wildlife habitat in Elliott Bay and the Duwamish Waterway and to begin the task of planning for maintenance and improvement of important habitat features in the context of Port development expectations. Several cooperative studies have been completed and one pilot fish and wildlife habitat enhancement project constructed. Most recently, in 1991 the Port received funding assistance from EPA to conduct an analysis of potential fish and wildlife habitat restoration sites in the Duwamish Waterway.

2. SCOPE OF WORK

The Port's 1991 Container Terminal Development plan outlined the twenty year development future for container cargo facilities. Potential marine terminal development sites described in the container plan raise numerous complex fish and wildlife habitat issues with all levels of government and Indian Tribes. In addition the Port is faced with

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potential liabilities due to natural resource damage assessments brought by the federal government together with participating fish and wildlife trustees.

These issues require that the Port continue initiatives in the formulation and implementation of fish and wildlife habitat policies and practices.

As a result of past work with regulatory agencies and Indian Tribes, the EPA has proposed to work with the Port to construct two demonstration fish and wildlife habitat projects in the Duwamish Waterway. This would consist of two funding assistance awards, totalling \$190,000 from the Coastal America Program (jointly administered by EPA, the U.S. Fish and Wildlife Service, and the Corps of Engineers), as an aid in construction of habitat projects at Turning Basin Number Three and at Terminal 105. Funding assistance would require twenty-five percent matching funds from the Port.

Funding assistance is beneficial for three reasons. First, in light of future Port development projects, including container terminal facilities or other marine projects, the Port will need to make specific commitments to fish and wildlife habitat improvements. The demonstration projects made possible by the Coastal America assistance will verify habitat improvement techniques which the Port can use in future, large scale compensatory fish and wildlife projects.

Second, the Port's potential natural resource damage liabilities are not precisely known at present. Work performed as a result of these demonstration projects, in excess of the matching fund requirement, could serve as the Port's future natural resource damage assessment needs. The work would be accomplished in advance and would benefit from economy of scale.

Finally, use of the Coastal America funds offered by EPA will advance the Port's long-range fish and wildlife habitat planning needs and continue the already established working relationship with regulatory agencies and tribes essential for timely project implementation.

3. FINANCIAL IMPLICATIONS

Funding assistance obtained from the Coastal America program requires a minimum twenty-five percent match obligation from the Port. Up to

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\$190,000 is being made available to the Port for intertidal fish and wildlife restoration projects at Turning Basin Number Three and at Terminal 105. The range of Port participation is \$22,500 to \$178,000, depending on the size of the restoration projects. Any project costs in excess of the federal assistance and matching Port contribution will be accounted to future Port mitigation project work and natural resource damage assessment liabilities.

Source of Funds: Funding for implementation of intertidal restoration projects will be requested once detailed budgets are determined. Funds for the Turning Basin project are included in the 1992 CIP budget and Terminal 105 project funds are programmed for 1993.

4. SCHEDULE

In order to receive funding assistance the Port must enter into agreements with EPA by September 30, 1992. Construction of fish and wildlife habitat improvements are expected to be completed by mid 1993.

5. REQUESTED ACTION

Authorization is requested for staff to negotiate and the Executive Director to enter into a grant agreement with the U.S. Environmental Protection Agency for construction of two fish and wildlife habitat restoration projects.

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